

March 11, 2016

The Honorable Tom Wheeler  
Chairman  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Dear Chairman Wheeler:

We write regarding action by the Federal Communications Commission (FCC) to bypass a bipartisan provision signed into law (P.L. 114-113) as part of the Consolidated Appropriations Act of 2016.

On March 31, 2014, the FCC ignored bipartisan concerns raised by Congress and adopted a controversial policy that effectively eliminated joint sales agreements (JSAs). These agreements, under which stations jointly sell advertising, often allow local news stations to stay afloat in smaller markets that cannot sustain them independently. We have seen first-hand the benefits of JSAs in our local communities and across the country. JSAs contribute to programming diversity, such as Spanish-language programming, and minority ownership. In one case, a JSA saved lives by providing broadcasters in Joplin, Missouri, with financial efficiencies to upgrade their Doppler radar equipment prior to the devastating May 2011 tornado.

Recognizing the critical role local broadcasters play in communities around our states, Congress took bipartisan action to ensure existing JSAs can continue. As supporters of the provision in P.L. 114-113 that explicitly grandfathered existing JSAs, we are extremely disturbed to learn the FCC is now requiring parties to unwind these agreements in connection with broadcast license transfers.

The FCC is entrusted with an important responsibility to review license transfers, and it must not use these reviews to undermine Congress' clear intent to preserve JSAs that were lawfully executed prior to the FCC's 2014 rule changes. We believe the Commission can successfully address our concerns by taking the following remedial actions: (1) eliminating any conditions imposed on previously approved license transfers that require the termination of JSAs in existence prior to March 31, 2014; and (2) respecting the statutory grandfather of JSAs when evaluating any assignments and license transfers in the future.

We ask for your response no later than April 1, 2016. Thank you in advance for your cooperation in this matter.



Roy Blunt  
United States Senator

Sincerely,



Richard Durbin  
United States Senator



John Boozman  
United States Senator



Barbara Mikulski  
United States Senator



Ron Johnson  
United States Senator



Charles Schumer  
United States Senator



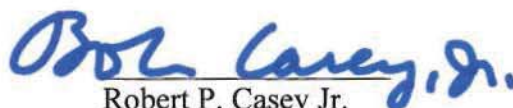
Cory Gardner  
United States Senator



Kirsten Gillibrand  
United States Senator



Roger Wicker  
United States Senator



Robert P. Casey Jr.  
United States Senator



Timothy Scott  
United States Senator



Benjamin Cardin  
United States Senator



FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF  
THE CHAIRMAN

March 15, 2016

The Honorable Roy Blunt  
United States Senate  
260 Russell Senate Office Building  
Washington, D.C. 20510

Dear Senator Blunt:

Thank you for your letter regarding concerns with Joint Sales Agreements (JSAs) in relation to the provision signed into law (P.L. 114-113) as part of the Consolidated Appropriations Act of 2016. I appreciate you sharing your views with me.

The Commission is fully complying with the statutory mandate to grandfather JSAs that were in existence prior to March 31, 2014, until September 30, 2025. When a license is sold, however, a new license is issued to a new owner. The former licensee of the station, who was the party to the original JSA, no longer has an interest in the license. The new licensee of the station is not a party to the original JSA, and any resulting new JSA was not "in effect on March 31, 2014." Therefore, there is nothing to grandfather.

We read the statute as affecting the length of the grandfathering period and not the transferability of grandfathered JSAs. The non-transferability of grandfathered broadcast license terms is well-established in Commission precedent. A few examples of such precedent include:

- **Newspaper Broadcast Cross Ownership rule.** In adopting the 1975 prohibition on the cross-ownership of newspapers and broadcast stations, the Commission held that existing combinations that were grandfathered under the Commission's Order were not transferable and that the future owners would have to comply with the new rule.<sup>1</sup>
- **Local Radio and Local TV rules.** In revising the local radio and television ownership rules in 2003, the Commission grandfathered existing combinations that would have been out of compliance under the new rules, but made clear that such grandfathering was not transferable and that any future transfer or assignment would have to come into compliance with the new rule.<sup>2</sup>

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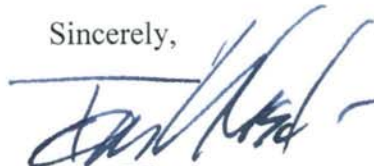
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- **Incentive Auction.** In its 2014 Report and Order regarding the upcoming Incentive Auction, the Commission confirmed that while it would grandfather existing station combinations previously approved by the Commission that otherwise would no longer comply with the media ownership rules as a result of the auction, upon the sale of any such grandfathered station combination in the future, the new owner is required to comply with the media ownership rules in place at the time of the transaction or else obtain a waiver.<sup>3</sup>

I appreciate your interest in this matter. Please let me know if I can be of any further assistance.

Sincerely,



Tom Wheeler

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<sup>3</sup> *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Report and Order, 29 FCC Rcd 6567, 6848-49, ¶¶ 691-693 (2014).



FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF  
THE CHAIRMAN

March 15, 2016

The Honorable John Boozman  
United States Senate  
141 Hart Senate Office Building  
Washington, D.C. 20510

Dear Senator Boozman:

Thank you for your letter regarding concerns with Joint Sales Agreements (JSAs) in relation to the provision signed into law (P.L. 114-113) as part of the Consolidated Appropriations Act of 2016. I appreciate you sharing your views with me.

The Commission is fully complying with the statutory mandate to grandfather JSAs that were in existence prior to March 31, 2014, until September 30, 2025. When a license is sold, however, a new license is issued to a new owner. The former licensee of the station, who was the party to the original JSA, no longer has an interest in the license. The new licensee of the station is not a party to the original JSA, and any resulting new JSA was not "in effect on March 31, 2014." Therefore, there is nothing to grandfather.

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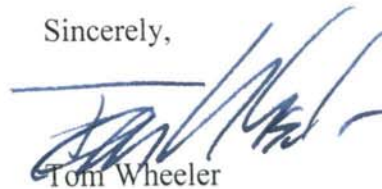
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I appreciate your interest in this matter. Please let me know if I can be of any further assistance.

Sincerely,

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Tom Wheeler

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FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF  
THE CHAIRMAN

March 15, 2016

The Honorable Benjamin L. Cardin  
United States Senate  
509 Hart Senate Office Building  
Washington, D.C. 20510

Dear Senator Cardin:

Thank you for your letter regarding concerns with Joint Sales Agreements (JSAs) in relation to the provision signed into law (P.L. 114-113) as part of the Consolidated Appropriations Act of 2016. I appreciate you sharing your views with me.

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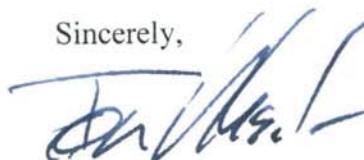
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I appreciate your interest in this matter. Please let me know if I can be of any further assistance.

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Tom Wheeler

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FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF  
THE CHAIRMAN

March 15, 2016

The Honorable Bob Casey  
United States Senate  
393 Russell Senate Office Building  
Washington, D.C. 20510

Dear Senator Casey:

Thank you for your letter regarding concerns with Joint Sales Agreements (JSAs) in relation to the provision signed into law (P.L. 114-113) as part of the Consolidated Appropriations Act of 2016. I appreciate you sharing your views with me.

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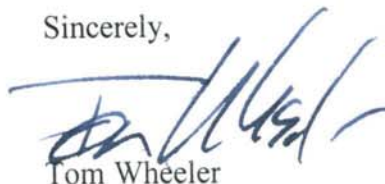
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I appreciate your interest in this matter. Please let me know if I can be of any further assistance.

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Tom Wheeler

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FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF  
THE CHAIRMAN

March 15, 2016

The Honorable Richard J. Durbin  
United States Senate  
711 Hart Senate Office Building  
Washington, D.C. 20510

Dear Senator Durbin:

Thank you for your letter regarding concerns with Joint Sales Agreements (JSAs) in relation to the provision signed into law (P.L. 114-113) as part of the Consolidated Appropriations Act of 2016. I appreciate you sharing your views with me.

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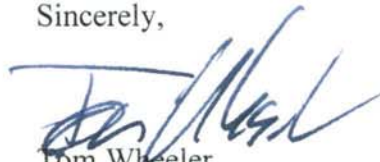
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I appreciate your interest in this matter. Please let me know if I can be of any further assistance.

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Tom Wheeler

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FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF  
THE CHAIRMAN

March 15, 2016

The Honorable Cory Gardner  
United States Senate  
354 Russell Senate Office Building  
Washington, D.C. 20510

Dear Senator Gardner:

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FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF  
THE CHAIRMAN

March 15, 2016

The Honorable Kirsten Gillibrand  
United States Senate  
478 Russell Senate Office Building  
Washington, D.C. 20510

Dear Senator Gillibrand:

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March 15, 2016

The Honorable Ron Johnson  
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- **Local Radio and Local TV rules.** In revising the local radio and television ownership rules in 2003, the Commission grandfathered existing combinations that would have been out of compliance under the new rules, but made clear that such grandfathering was not transferable and that any future transfer or assignment would have to come into compliance with the new rule.<sup>2</sup>

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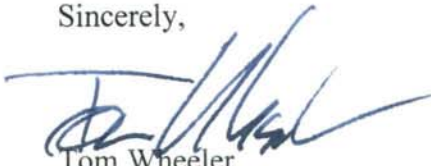
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I appreciate your interest in this matter. Please let me know if I can be of any further assistance.

Sincerely,



Tom Wheeler

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<sup>3</sup> *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Report and Order, 29 FCC Rcd 6567, 6848-49, ¶¶ 691-693 (2014).



FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF  
THE CHAIRMAN

March 15, 2016

The Honorable Barbara A. Mikulski  
United States Senate  
503 Hart Senate Office Building  
Washington, D.C. 20510

Dear Senator Mikulski:

Thank you for your letter regarding concerns with Joint Sales Agreements (JSAs) in relation to the provision signed into law (P.L. 114-113) as part of the Consolidated Appropriations Act of 2016. I appreciate you sharing your views with me.

The Commission is fully complying with the statutory mandate to grandfather JSAs that were in existence prior to March 31, 2014, until September 30, 2025. When a license is sold, however, a new license is issued to a new owner. The former licensee of the station, who was the party to the original JSA, no longer has an interest in the license. The new licensee of the station is not a party to the original JSA, and any resulting new JSA was not "in effect on March 31, 2014." Therefore, there is nothing to grandfather.

We read the statute as affecting the length of the grandfathering period and not the transferability of grandfathered JSAs. The non-transferability of grandfathered broadcast license terms is well-established in Commission precedent. A few examples of such precedent include:

- **Newspaper Broadcast Cross Ownership rule.** In adopting the 1975 prohibition on the cross-ownership of newspapers and broadcast stations, the Commission held that existing combinations that were grandfathered under the Commission's Order were not transferable and that the future owners would have to comply with the new rule.<sup>1</sup>
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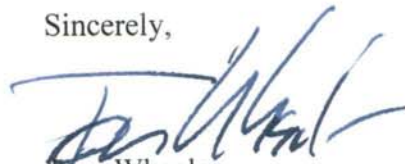
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I appreciate your interest in this matter. Please let me know if I can be of any further assistance.

Sincerely,



Tom Wheeler

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FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF  
THE CHAIRMAN

March 15, 2016

The Honorable Charles E. Schumer  
United States Senate  
322 Hart Senate Office Building  
Washington, D.C. 20510

Dear Senator Schumer:

Thank you for your letter regarding concerns with Joint Sales Agreements (JSAs) in relation to the provision signed into law (P.L. 114-113) as part of the Consolidated Appropriations Act of 2016. I appreciate you sharing your views with me.

The Commission is fully complying with the statutory mandate to grandfather JSAs that were in existence prior to March 31, 2014, until September 30, 2025. When a license is sold, however, a new license is issued to a new owner. The former licensee of the station, who was the party to the original JSA, no longer has an interest in the license. The new licensee of the station is not a party to the original JSA, and any resulting new JSA was not "in effect on March 31, 2014." Therefore, there is nothing to grandfather.

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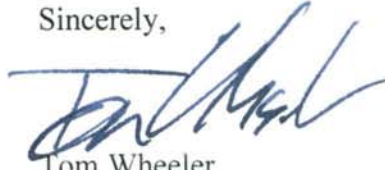
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I appreciate your interest in this matter. Please let me know if I can be of any further assistance.

Sincerely,



Tom Wheeler

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FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF  
THE CHAIRMAN

March 15, 2016

The Honorable Tim Scott  
United States Senate  
520 Hart Senate Office Building  
Washington, D.C. 20510

Dear Senator Scott:

Thank you for your letter regarding concerns with Joint Sales Agreements (JSAs) in relation to the provision signed into law (P.L. 114-113) as part of the Consolidated Appropriations Act of 2016. I appreciate you sharing your views with me.

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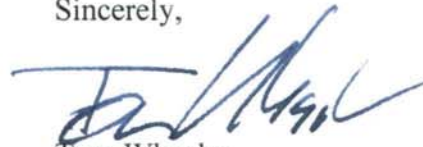
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Sincerely,



Tom Wheeler

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FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF  
THE CHAIRMAN

March 15, 2016

The Honorable Roger Wicker  
United States Senate  
555 Dirksen Senate Office Building  
Washington, D.C. 20510

Dear Senator Wicker:

Thank you for your letter regarding concerns with Joint Sales Agreements (JSAs) in relation to the provision signed into law (P.L. 114-113) as part of the Consolidated Appropriations Act of 2016. I appreciate you sharing your views with me.

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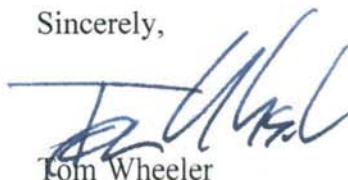
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I appreciate your interest in this matter. Please let me know if I can be of any further assistance.

Sincerely,

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Tom Wheeler

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